IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA MACON DIVISION

ROY BOONE BRIGHT,	
Plaintiff,	
v.) CIVIL ACTION NO. 5:18-CV-355 (MTT)
MIKE HOWELL, et al.,))
Defendants.))

ORDER

United States Magistrate Judge Charles Weigle recommends granting the Defendants' motion to dismiss because the Plaintiff (1) failed to file the complaint within the statute of limitations; (2) failed to state a claim upon which relief may be granted; (3) failed to obtain a favorable termination of his criminal prosecution¹ pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994), before filing his complaint; and (4) failed to bring his suit after the completion of his state criminal case.² Doc. 10. The Plaintiff objected to the Recommendation twice by repeating the same factual claims made in his complaint, and the Defendants responded. *Compare* Doc. 8 *with* Docs. 13, 15; Doc. 14. Pursuant to 28 U.S.C. § 636(b)(1), the Court has considered the Plaintiff's objections and the

¹ The Plaintiff was advised that, insofar as he seeks habeas relief, he may file a habeas petition pursuant to 28 U.S.C. § 2241. Doc. 10 at 4 n.3.

² Pursuant to *Younger v. Harris*, 457 U.S. 423, 431 (1982), the Court cannot "enjoin a state criminal prosecution begun prior to the institution of the federal suit." The Defendants notified the Court in their response that the *Younger* abstention doctrine no longer applies because the Plaintiff has since been convicted in his state criminal case. Doc. 14 at 3. Accordingly, *Heck* applies.

Defendants' response, and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects. The Recommendation (Doc. 10) is **ADOPTED** and made the order of this Court. Accordingly, the Plaintiff's complaint (Doc. 8) is **DISMISSED** without prejudice.

SO ORDERED, this 24th day of July, 2019.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT